

P18872

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Temporary Permit )  
18872 (Application 27727) )  
WILLIAM P. AND ROBERT L. WALLACE )  
DBA WALLACE BROTHERS )  
- Applicant )

Order: WR 83-8  
Source: Colusa Basin Drainage  
Canal  
County: Colusa

ORDER VALIDATING THE ISSUANCE OF  
TEMPORARY PERMIT

BY BOARD CHAIRWOMAN ONORATO:

The Wallace Brothers (applicant) having filed Application 27727 for a temporary permit to divert and use unappropriated water pursuant to Chapter 6.5 (commencing with Section 1425), Part 2, Division 2 of the Water Code; the Board having consulted with the U. S. Bureau of Reclamation (Bureau), Department of Water Resources, California Department of Fish and Game, Reclamation District No. 108 and other affected parties, Board Chairwoman Onorato having concluded from available information that the applicant qualifies for a temporary permit to divert and use water, subject to review and validation by the Board as provided by Water Code Section 1425; the Board finds as follows:

Substance of the Application

1. Application 27727 is for a temporary permit to divert 21.9 cubic feet per second from July 1 to August 31, 1983 from the Colusa Basin Drainage Canal (Canal) (within the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 6, T14N, R1W, MDB&M) with the total diversion not to exceed 2,685 acre-feet. Water will be used for irrigation of some 1,427 acres within Sections 3, 4, 5, 6, 7, 8, 9 and 10, T14N, R1W, and Sections 31, 32 and 33, T15N, R1W, MDB&M.

### The Project

2. The applicants currently divert water for irrigation under one license and two permits. The license issued under Application 11881 authorizes diversion from April 15 to October 1. Permits issued under Applications 23945 and 23946 authorize diversion from April 1 to June 30 and from September 1 to September 30. The remaining irrigation requirements of the applicant during July and August can be met by pumping groundwater or purchasing water on an interim basis from Yuba County Water Agency.

3. The applicants are members of a group which is seeking to enter into a permanent water supply contract with the Bureau to provide for diversions of water from the Canal. This water would not be supplied directly to Wallace Brothers through the Canal since the Bureau has no conduits capable of getting the water there. Rather, the water would be released into the Sacramento River to flow into the Sacramento-San Joaquin Delta in exchange for water diverted from the Canal. Negotiations for the water supply contract have not been completed.

### Availability of Water

4. During the irrigation season, the Bureau and Glenn-Colusa Irrigation District divert water from the Sacramento River for irrigation purposes. Return flow from the Sacramento River diversions and other sources enters the Canal and is available for diversion and use on lands adjacent to the Canal.

5. In most years, during July and August, the water in the Canal is required for use under prior rights along the Canal and by downstream users. After consulting with the Department of Water Resources and the Bureau, the Bureau has determined that July and August 1983 runoff will be exceptionally high and will exceed prior right demands and Delta outflow standards for a "wet"-type year. On the basis of this review, staff has concluded that unappropriate water will be available for the proposed diversion and that the diversion and use will not adversely affect the rights of downstream users or unreasonably affect other beneficial uses.

6. A protest from Anderson Farms Company alleges that the proposed diversion by the applicants would interfere with the protestant's prior rights. No conditions were stated for withdrawal of the protest. Staff's review indicates that water will be available during July and August for diversion under a temporary permit. In accordance with Water Code Section 1430, a temporary permit is subject to modifications or revocation at all times. If the applicants' diversion under a temporary permit interferes with the protestant's use of water under prior rights, the matter should be brought promptly to the attention of the Division of Water Rights.

7. In order to enable prompt action if necessary to protect prior rights and other beneficial uses, the Board should delegate to the Chief of the Division of Water Rights the authority to revoke a temporary permit or to reduce the quantity of water which may be diverted under the permit.

8. To assure protection to prior rights on the Canal, the permit should include the following provision which is included in the agreement between the applicants, Reclamation District 108, Knights Landing Ridge Cut Water Users and Drain Association, and H. H. Balsdon as an individual, executed on October 17, 1977:

"Permittee shall cease and desist to divert water under this permit whenever any protestant, who is party to the above agreement, notifies permittee that insufficient water is available to satisfy prior rights. Permittee shall not recommence diverting until notified by the protestant that water is available for appropriation."

Need

9. Diversion of surface water from the Canal requires less energy than is required to pump groundwater. When surface water is legally available for diversion, the use of groundwater is not an energy-conscious or cost-effective method of obtaining the water needed during July and August. Because the proposed contract with the Bureau has not been negotiated as yet, the applicants have an urgent but temporary need to divert water during July and August of this year. They wish to divert under a temporary permit instead

of attempting to purchase exchange water on a short-term basis from Yuba County Water Agency as previously intended. Although it appears that water could be purchased from Yuba County Water Agency under a temporary exchange contract, it would serve no purpose to require the applicants to buy water when surplus water is available for diversion and use under a temporary permit. The Board does not interpret the urgency language of Water Code Section 1425(a) as requiring an applicant to pursue economically wasteful alternatives rather than diverting under a temporary permit.

Effects of the Proposed Diversion on Fish,  
Wildlife and Other Instream Uses

10. The Department of Fish and Game has stated that the proposed diversion will have no adverse affect on fish and wildlife. No stream alteration will take place since the diversion facilities are already in place.

California Environmental Quality Act

11. This Board Order authorizes diversion of water on a temporary urgency basis through existing facilities for a two-month period ending August 31, 1983. Such activity is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with Section 15104, Chapter 3, Title 14, California Administrative Code.

Action by Board

12. Staff explained the foregoing situation to Board Chairwoman Onorato and recommended approval of the temporary permit. Chairwoman Onorato concurred with the staff recommendation on May 12, 1983 and authorized issuance of the temporary permit. On the same day, the Chief of the Division of Water Rights issued Temporary Permit 18872.

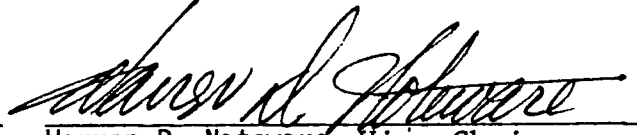
NOW, THEREFORE, IT IS ORDERED that issuance of Temporary Permit 18872 is validated subject to the following condition:

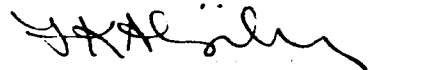
"The Chief of the Division of Water Rights may revoke this permit or reduce the quantity of water authorized to be diverted under this permit if he determines that such action is necessary to protect prior rights or other beneficial uses."

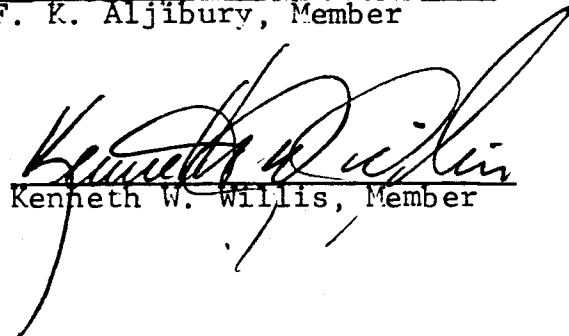
Dated: June 16, 1983

WE CONCUR:

  
Carole A. Onorato, Chairwoman

  
Warren D. Noteware, Vice Chairman

  
F. K. Aljibury, Member

  
Kenneth W. Willis, Member

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

TEMPORARY PERMIT 18872

Application 27727 of Wallace Brothers  
c/o Don Kienlen, 2012 H Street, Suite 201, Sacramento, California 95814

filed on April 22, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source: Colusa Basin Drainage Canal  
Tributary to: Sacramento River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1) North 80°02' West - 7,922.2' from corner common to Sections 4,5,8 & 9	NW¼ of SE¼	6	14N	1W	MD
2) North 52°48' East - 2,265' West from SW corner Section 6, T14N, R1W, MDB&M	NW¼ of SE¼	6	14N	1W	MD

County of Colusa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Irrigation	1,427 acres located within Sections 3,4,5 6,7,8,9 & 10 and Sections 31,32 & 33		14N	1W	MD	
			15N	1W	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

1. The water diverted and used shall be limited to the quantity which can be beneficially used and shall not exceed 21.9 cubic feet per second to be diverted from July 1, 1983 to August 31, 1983. The maximum amount diverted under this permit shall not exceed 2,685 acre-feet.

2. The Board shall supervise diversion and use of water under the temporary permit for the protection of vested rights and instream beneficial uses and for compliance with permit conditions. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliances with the terms of this temporary permit.

3. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this temporary permit, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this temporary permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

4. Permittee shall report to the State Water Resources Control Board by September 15, 1983, the maximum rate of diversion and the total acre-feet diverted under this temporary permit.

5. The Board shall, at its next regular meeting, review and validate this temporary permit, including the findings upon which it was issued, and should the Board fail or refuse to validate this temporary permit, it shall stand revoked as of the date of said Board meeting and shall be of no further force and effect.

6. This temporary permit is issued and Permittee takes it subject to the California Water Code, Division 2, Chapter 6.5, Section 1425, et seq. Any temporary permit issued under this chapter shall not result in a creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the Board. Any temporary permit shall automatically expire 180 days after the date of its issuance, unless an earlier date is specified or it has been revoked.

7. Permittee shall cease and desist to divert water under this permit whenever any protestant, who is party to the above agreement, notifies permittee that insufficient water is available to satisfy prior rights. Permittee shall not recommence diverting until notified by the protestant that water is available for appropriation.

8. Based upon record in this matter, I find:

- A. That applicant herein is an applicant for a water right entitlement under the provisions of Chapter 6.5 commencing with Section 1425, Part 2, Division 2 of the Water Code;
- B. That applicant has an urgent but only temporary need to divert and use water.
- C. That unappropriated water is available and water may be diverted and used without injury to any lawful user of water and without unreasonable effect upon beneficial uses;

\*Agreement between permittee, Reclamation District 108, Knights Landing Ridge Cut Water Users and Drainage Association, and H. H. Balsdon executed on October 18, 1977.

APPLICATION 27727

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- D. The temporary diversion of water authorized by this temporary permit will use existing facilities and qualifies as a Categorical Class 4 exemption from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 ET SEQ) in accordance with Section 15104 Chapter 3, Title 14, California Administrative Code.

Accordingly, issuance of the within temporary permit is hereby authorized.

Dated: MAY 12 1983

Carole A. Moratto

In accordance with the foregoing, the temporary permit is hereby issued.

Raymond Wash

Chief, Division of Water Rights

5-12-83

Date